APPENDIX

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United States Constitutional Provisions, United States Statutes, Regulations From the Code of Federal Regulations Involved and Federal Rules of Criminal Procedure

I.

United States Constitution

Amendment IV: The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

II.

United States Code

18 U.S.C. § 545 Smuggling goods into the United States

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

Shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in the first or second paragraph of this section, shall be forfeited to the United States.

The term "United States", as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island or Guam. June 25, 1848, c. 645 62 Stat. 782; Sept. 1, 1954, c. 1213, Title V, § 507, 68 Stat. 1141; June 30, 1955, c. 258, § 2(c), 69 Stat. 242.

18 U.S.C. § 1701 Obstruction of mails generally

Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined not more than $100.00 or imprisoned not more than six months, or both. June 25, 1948, c. 645, 62 Stat. 778.

18 U.S.C. § 1702 Obstruction of correspondence

Whoever takes any letter, postal card, or package out of any postoffice or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any postoffice or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined not more than $2,000 or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 778.

39 U.S.C. § 710 Making up mail

Letters brought for mailing to a post office half an hour before the time for the next forwarding mail shall be in-

cluded therein unless, in the opinion of the Postmaster General, more time for making up the mail is required, they may be included in mail to be forwarded not more than one hour thereafter. Pub.L. 86-682, Sept. 2, 1970, 74 Stat. 584.

39 U.S.C. § 4057 Opening first class mail

Only an employee opening dead mail by authority of the Postmaster General, or a person holding a search warrant authorized by law may open any letter or parcel of the first class which is in the custody of the Department. Pub.L. 86-682, Sept. 2, 1970, 74 Stat. 657.

39 U.S.C. § 4251 Definition

(a) First class mail consists of mailable (1) postal cards, (2) postcards, (3) matter wholly or partially in writing or typewriting, except as provided in sections 4365, 4453, and 4555 of this title, and (4) matter closed against postal inspection . . . Pub.L. 86-682, Sept. 2, 1970, 74 Stat. 663.

III.

Code of Federal Regulations

Title 39 Postal Service

Revised January 1, 1968

39 C.F.R. § 113.7 Mail covers

Authority to order a mail cover is restricted to the Chief Postal Inspector or your postal Inspector in charge. Upon request of either of these officials, furnish them with information regarding the address, return address or postmarks on mail. When specifically requested by the Chief Postal Inspector or your inspector in charge furnish such information to a designated postal inspector. Do not give such information to anyone else. Requests for mail covers shall be treated confidentially and there shall be strict compliance with the instructions outlined in the request.

39 C.F.R. § 124.9 Opinions on mailability

(a) When in doubt as to the mailability of any matter described in §§ 124.2, 124.3, and §§ 125.2, 125.3, and 125.4 of this Chapter, the postmaster shall submit a sample or a complete statement of the facts to the Classification and Special Services Division, Bureau of Operations and await instructions.

(b) Postmasters and other employees at post offices shall not give opinions to the public concerning the mailability of matter under §§ 124.4, 124.5, 124.6, 124.7, 124.8 and §§ 125.5, 125.6 of this chapter. When in doubt as to the mailability of any such matter, the postmaster shall withhold it from dispatch or delivery, and shall send a sample or a complete statement of the facts to the Mailability Division Office of the General Counsel, for instructions. Newspapers containing doubtful matter should be promptly reported to the Mailability Division, Office of the General Counsel, but they should not be withheld from dispatch without specific instructions.

39 C.F.R. § 131.2 Classification

(a) *Description.* (1) First-class mail includes:

(i) Letters.

(ii) Postal and post cards.

(iii) Airmail weighing not to exceed 8 ounces whether sealed or unsealed.

(iv) All matter wholly or partly in writing, except authorized additions to second-, third-, and fourth-class mail. See subparagraph (2) of this paragraph.

(v) Matter sealed or closed against inspection. See §§ 126.2(e), 134.8(a), and 135.7 of this chapter for mailing of sealed publications at second-class rates of postage and sealed parcels at the third- or fourth-class rates of postage. . . .

39 C.F.R. § 161.3 Registration

(a) *What may be registered.* All mailable matter prepaid with postage at the first class or airmail rate may be registered. Stamps or meter stamps must be attached to the mail representing all postage and fee charges. Business reply mail may not be registered unless postage and all fees are fully prepaid.

(b) *Where to mail.* Registration may be obtained by presenting mail to:

(1) *Post offices and their branches and stations.* Postmasters will accept mail of unusually high value only at the main office or the larger branches and stations. . . . (26 F.R. 11587, Dec. 6, 1961, as amended at 27 F.R. 6979, July 24, 1962; 31 F.R. 8236, June 11, 1966. Redesignated at 31 F.R. 15350, Dec. 8, 1966)

IV.

Federal Rules of Criminal Procedure

Effective July 1, 1968

Rule 41 Search and Seizure

(e) Motion for Return of Property and to Suppress Evidence. A person aggrieved by an unlawful search and seizure may move the district court for the district in which the property was seized for the return of the property and to suppress for use as evidence anything so obtained on the ground that (1) the property was illegally seized without warrant, or (2) the warrant is insufficient on its face, or (3) the property seized is not that described in the warrant, or (4) there was not probable cause for believing the existence of the grounds on which the warrant was issued, or (5) the warrant was illegally executed. The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention and it shall not be admissible in evidence at any

hearing or trial. The motion to suppress evidence may also be made in the district where the trial is to be had. The motion shall be made before trial or hearing unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.

As amended Dec. 27, 1948, eff. Oct. 20, 1949; April 9, 1956, eff. July 8, 1956.